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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ERIC WILTON BURTON,

Petitioner,

v.

**DIRECTOR OF THE CALIFORNIA
DEPARTMENT OF CORRECTIONS,**

Respondent.

08-0325 LAB (POR)

**DECLARATION OF KELLEY
JOHNSON IN SUPPORT OF
APPLICATION FOR 14-DAY
ENLARGEMENT OF TIME TO
FILE A RESPONSE TO THE
FIRST AMENDED PETITION FOR
WRIT OF HABEAS CORPUS**

Judge: Honorable Louisa S. Porter

On August 4, 2008, this Court filed an Order granting Respondent's application for enlargement of time. Currently, the motion to dismiss is due on or before September 8, 2008, and an answer to the petition, if any, is due by September 22, 2008.

While declarant was in the process of preparing a response to the Petition, declarant discovered that two habeas petitions Burton filed in the California state courts were missing from the files. Specifically, declarant has been unable to locate a habeas petition Burton filed in Division One of the Fourth Appellate District Court of Appeal on November 27, 2006 (Case No. D049846),

1 and a petition for review Burton filed in the California Supreme Court on May 7, 2007 (Case No.
2 S152584).

3 Although declarant's office has requested copies of the documents from the courts,
4 declarant has been informed that the documents may not be obtained until this Friday. Declarant
5 cannot determine whether Burton has exhausted all of the claims he has raised in the instant petition
6 until declarant receives and reviews the petitions Burton filed with the California Courts.

7 In addition to the above-mentioned cause for delay, declarant has been preparing a return
8 to the First Amended Petition in Ricardo M. Gonzalez v. Jeannie Woodford, SA CV 06-0927-FMC
9 (SH), which was due today. The case had been assigned to declarant on June 26, 2008, well before
10 Burton filed this Amended Petition, and well before this Court's July 3, 2008, Order setting the
11 briefing schedule.

12 Moreover, since this Court's August 4, 2008, Order granting Respondent's application for
13 an enlargement of time, declarant was ordered to prepare a supplemental brief in Division Two of
14 the Fourth Appellate District Court of Appeal in People v. Darrett, E043221. Specifically, on
15 August 20, 2008, the court ordered declarant to file a supplemental brief addressing four questions,
16 and ordered that the brief was due within 14 days of the order, or by September 2, 2008. Declarant
17 filed the brief on September 2, 2008.

18 Based on the foregoing, declarant respectfully requests that this Court grant a 14-day
19 enlargement of time so that the motion to dismiss the First Amended Petition is due by September
20 22, 2008; and the answer is due by October 6, 2008.

21 I declare under penalty of perjury pursuant to the law of the United States that the
22 foregoing is true and correct, on this day, September 3, 2008, at San Diego, California.

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24
25 s/ Kelley Johnson
26 KELLEY JOHNSON
Deputy Attorney General
Attorneys for Respondent

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